

Municipal Council Minutes
September 13, 2005
Town Hall Auditorium

Pledge of Allegiance – Councilor Chandler

Roll Call: James D. Chandler, Ann Connolly King, Esther F. Headley, Anne C. Larnard, Christopher G. Lawrence, Mario J. Pinierio, Robert D. Woodsom, Roger Benson and Joseph W. McMilleon

Accept Minutes July 12, 2005 and June 21, 2005 – Councilor Benson motioned, Councilor Pinierio second – Voted Unanimous

PUBLIC COMMENT

James Thivierge, 11.5 Sanborn Ter. – Mr. Thivierge states the town should hold off on renewing the cable contract.

Alison Lindstrom, 10 Wells Ave. – Ms. Lindstrom would like to see the town use the homes they have taken because of unpaid taxes for the people displaced by hurricane Katrina.

Chris York, - Mr. York wants to know if the FY05 legal bills associated with 2005-50 have been paid and if they were, was it a legal expenditure.

President McMilleon states that as long as the town doesn't overspend the budget it has been an accepted procedure to do transfers to pay for bills like legal where you have no way of knowing how much the bills will be. He asks Mike Basque for a written response and a copy to be sent to Mr. York.

LICENSE AND PERMITS

2005-89 Common Victualler License – Market Square, Kevin Alan Adams

President McMilleon reads 2005-89 into the record.

Mr. Adams is asking for a license to have a hot dog, sausage and pepper steak cart in Market Square.

Councilor Pinierio feels that this is a good idea and asks Mr. Adams about trash removal and signs. Mr. Adams states that he will remove all of his trash.

Councilor Chandler is concerned about the tax paying restaurants and would like to hear from them first.

Councilor Benson moves for approval

Councilor Pinierio second.

Voted 8 Yes, 1 abstain (Chandler)

2005-90 Common Victualler License (transfer) – Kyman Khalil (Verina Inc. d/b/a Busy Bee Pizza & Subs

President McMilleon reads 2005-90 into the record.

Ayman Khalil, 29 Victor St., Haverhill states this is a transfer and the restaurant will be run the same way with the exception of adding fried seafood.

Councilor Benson moves for approval of 2005-90 as submitted.

Councilor Pinierio second
Voted – Unanimous

2005-92 Automatic Amusement (expansion) – Leo's Super Bowl, 84 Haverhill Rd.

President McMilleon reads 2005-92 into the record.

Paul Gagliardi, Attorney representing Mr. Leo – Mr. Gagliardi explains Mr. Leo is putting on an addition on his bowling lanes and wants to expand his automatic amusement machines. Councilor Pinierio wants to make sure that there are no violent games. Mr. Leo states no; they are geared for kids.

Councilor Benson move for approval of 2005-92 as submitted
Councilor Pinierio second
Voted – Unanimous

MAYOR APPOINTMENTS

2005-97 Appointment of Susan Earabino – Cultural Council term to expire 6/30/08
President McMilleon reads 2005-97 into the record

Ms. Susan Earabino – Ms. Earabino states that she is a artist, published poet and educator. She wants to help out Amesbury anyway she can in promoting the Arts. She is looking for ways to give back to her town.

Councilor Pinierio motions to accept 2005-97
Councilor Benson second
Voted – Unanimous

MUNICIPAL COUNCIL APPOINTMENTS

2005-86 Appointment of Eric Eby to Traffic and Transportation – 3 year term
President McMilleon reads 2005-86 into the record

Eric Eby, 139 Market Street – Mr. Eby is a registered traffic engineer for the Commonwealth of Mass. He has lived in town for 12 years and would like to lend his professional expertise and knowledge to the town.

Councilor Pinierio motions to accept 2005-86
Councilor King second
Voted – Unanimous

LATE FILE

2005-102 Appointment of Charter Review Committee
President McMilleon will accept a motion to accept as a late file.

Councilor Benson motions to accept 2005-102 as a late file.

Councilor Pinierio object because of lack of information

Councilor Woodsom second

Councilor Lawrence objects because of lack of information, Councilor Woodsom also wants backup information but will accept as a late file. Councilor Chandler would object because of lack of information.

Councilor Benson withdraws his motion to accept.

Councilor Chandler motions to reject the late file 2005-102
Councilor Pinierio second

Recess 8:50

President McMilleon reads from the charter Section 2-3 Appointments by the Mayor. He states that if the council accepts the motion to reject the late file then it would not come before the council for a vote and within 15 days from the submission date these appointments will become effective. If the council wants to stop these appointments they will need to pass the late file and reject it by a two thirds vote of the council.

Councilor Chandler withdraws his motion

Councilor Benson moves to accept 2005-102 as a late file.
Councilor King second

Councilor Pinierio objects to Charles LaBella being appointed to the Charter Review Committee because he is presently a member of the school committee which he feels violates the Charter.

Voted – Unanimous

Late File 2005-102 has been accepted.

President McMilleon reads 2005-102 into the record.

Councilor Benson moves to reject 2005-102
Councilor Chandler second

Councilor Benson motions to suspend the rules to allow Mr. Deschenes to speak
Councilor Pinierio second
Voted – 7 Yes, 2 Opposed (Lawrence, McMilleon)

Roger Deschenes asks for clarification on the motions and actions of the council to accept or reject the appointments to the Charter Review Committee.

Councilor Woodsom states that this needs to be held to the same standard as every other appointment made with full resumes and supporting documentation on every applicant.

Councilor Pinierio asks Josh Handverger how many names were submitted for the committee. Mr. Handverger responds not much greater than the list appointed, at least 3 more however they were ruled out because they were candidates for other races.

President McMilleon repeats the motion which is to reject 2005-102 and it has to be rejected by a 2/3 vote in order to stop the appointments from being made.

Roll Call Vote – 9 Yes

President McMilleon asks the Clerk to get background information from the Mayor if he resubmits the appointments for the Charter Commission and clarification on Charles Labella being on the list.

PUBLIC HEARINGS

2004-126 Amendment of Article 7 of the Amesbury Town Bylaws – Councilors Lawrence and Woodsom cont.

President McMilleon reads 2004-126 into the record.

*Councilor Lawrence moves for approval of 2004-126 as submitted.
Councilor Pinierio second*

Councilor King expresses serious concerns about approving 2004-126 due to the fact that another meeting was scheduled to discuss 2004-126 and was canceled.

Councilor Lawrence feels this should be approved because it has been around for several months and everyone has had an opportunity to read the document. He feels with the change in the make up on the Council and Finance Committee, due to the upcoming election, there will be a huge loss of knowledge and continuity. 2004-126 will put residents on the Finance Committee with staggered terms and will offer the opportunity for the continuation of knowledge.

President McMilleon opens the public hearing.

Councilor Lawrence reads an overview of the bill.

Chris York – Mr. York supports 2004-126.

Councilor King objects to proceeding to a public hearing on 2004-126, there has been no recommendation from Rules and Regulations.

President McMilleon responds that the Council can have a public hearing.

Councilor Pinierio states that Councilor King should not be allowed to speak during public hearing.

Annette Denietolis, 21 Orchard Street – Ms. Denietolis supports 2004-126

Gerard Dionne, 8 Huntington Ave. - Mr. Dionne supports the peoples right to speak.

James Thivierge, 11.5 Sanborn Ter. – Mr. Thivierge supports a mix of both Council members and residents on the Finance Committee.

President McMilleon closes the public hearing.

Councilor Larnard states that she is for putting a mix of Councilors and residents on the Finance Committee as long as the Councilors are in the majority. 2004-126, the Councilors would not be in the majority but an extreme the other way with 7 residents and 1 councilor. She would not be comfortable voting tonight because it was supposed to go to a workshop to work out issues with the charter. If it came to a vote tonight she would not support it.

Councilor Woodsom states that at the one workshop on 2004-126 there were concerns about the charter and legal issues. One member of the Ordinance Committee agreed that there were areas that needed to be looked into. Another meeting was scheduled and was canceled. He would not vote to support 2004-126 as it is.

Councilor Headley supports having residents on the Finance Committee.

Councilor Chandler feels the Finance Committee is still an advisory committee to the Municipal Council and the Municipal Council still bears all the responsibility for any vote on finances of the Town. He feels a bigger group of outsiders is the better and is in favor of 2004-126.

Councilor King states again that she does not believe 2004-126 should be up for discussion, it belongs before Rules and Regulations. She feels the ordinance clearly violates the charter and it came up in the first workshop on 2004-126. She feels that as a Councilor who will ultimately vote on the budget, sitting on the Finance Committee and meeting with the Department Heads is very important. Through her research she has found that there is not one other municipality in the state with the same form of government that has residents on their Finance Committee.

Councilor Pinierio is in favor of 2004-126.

Councilor Benson does not support 2004-126. He feels that Councilors gain so much knowledge serving on the Finance Committee, being part of the budget hearings and the discussions; you lose that knowledge if you are not part of that. He can not understand why anyone would want to take that knowledge away from those people that ultimately are going to make the final decisions. He does support having residents on the committee just not taking councilors off.

Councilor Lawrence moves for approval of 2004-126 as submitted.
Councilor Pinierio second

Roll Call: 3 Yes, 6 No (King, Headley, Larnard, Woodsom, Benson, McMilleon)
Motion Fails

2005-24 An Ordinance to Ensure Access to Public Documents – Councilor Lawrence sponsor
President McMilleon reads 2005-24 into the record.

Councilor Lawrence states that 2005-24 is tabled in Ordinance. A letter is being sent out to all departments that would be affected and asking them how they would deal with this proposal.

Motion is to continue

Councilor Chandler second
Voted – 9 Yes

2005-60 Amend Rule 5F “Public Comment” of the Amesbury Municipal Council Fourth Session Rules and Procedures – Councilor Lawrence sponsor cont.

President McMilleon reads 2005-60 into the record.

Councilor Woodsom states that Rules and Procedures have not met.
Councilor Lawrence states Ordinance approved with a wording change.

Councilor Woodsom moves to continue until Rules and Procedures have met.
Councilor Chandler second

Voted – 9 Yes

2005-63 An Ordinance to amend the Zoning Bylaw Section II and Section V – Mayor Hildt sponsor cont.

President McMilleon reads 2005-63 into the record.

Councilor Woodsom reads the Ordinance recommendation to accept as per the Planning Board.

Nipun Jain, Town Planner – Reads the Planning Board recommendation.

Councilor Pinierio moves to accept 2005-63 as per Planning Board recommendations and on Page 6 under Enforcement section 3 add sec. 32 after G.L.c. 184.

Councilor Chandler second

Roll Call Vote: 9 Yes

2005-80 A Request that the Municipal Council accept a Deed of Gift from the Lake Gardner Improvement Association – Mayor Hildt sponsor cont.

President McMilleon reads 2005-80 into the record.

Councilor Lawrence reads the Ordinance Committee recommendation to adopt in concept but with further recommendations that 1) the deed be prepared in recordable form and ultimately recorded. 2) the deed should recite that the subject structures and improvements are intended for public use subject to appropriate regulation by the appropriate Board, Committee or Department of the Town, and 3) that the deed should specifically address who's going to be responsible for repair and maintenance of the subject structures and improvements.

Nipun Jain, Town Planner – Mr. Jain states that the recommendations are to make sure the responsibilities are clear and that they are recorded.

President McMilleon declares the public hearing open and then closes the public hearing.

Councilor Woodsom feels that the Ordinance Committee amendments are more questions than they are amendments; questions that have not been answered.

Josh Handverger states that once it is given to the Town it is the Town's responsibility to maintain it. It is a gift from the Lake Gardner Improvement Association, it beautifies the town.

Nipun Jain states that the recommendations should be accepted and as the deed is written it should include the information.

Councilor Chandler moves to accept 2005-80 with the three recommendations by the Ordinance Committee.

Councilor Pinierio second

Roll Call Vote – 8 Yes, 1 abstain (Headley)

2005-81 An Ordinance to see if the Municipal Council will accept a donation of land from Woodsom Limited Partnership – Mayor Hildt sponsor cont.

President McMilleon reads 2005-81 into the record.

Councilor Woodsom recuses.

Councilor Lawrence reads the recommendation from the Ordinance Committee to amend the ordinance. Delete the sentence "Said land to be deeded to the Town of Amesbury." And substitute therefore "This acceptance is intended to ratify and confirm the acceptance by the Town of the conveyance of said land by deeds recorded with said Registry of Deeds in Book 9963, Pages 317, 322 and 330, respectively." As so amended, recommend adoption.

Discussion continues about the 1989 and 1992 deed and the title search recommended by Kopleman and Paige.

Councilor King asks that 2005-81 go back to Ordinance and get additional information regarding the deeds.

Councilor Lawrence moves that 2005-81 go back to Ordinance Committee.

Councilor Chandler

Voted – 8 Yes, 1 Recuse (Woodsom)

2005-82 An Ordinance to Amend the Amesbury Zoning Bylaw Section XI.J2 Historic Preservation – Mayor Hildt sponsor cont.

President McMilleon reads 2005-82 into the record.

Councilor Lawrence reads the Ordinance Committee recommendation to table until the next meeting to see what the Planning Board recommendation is.

Councilor Benson second
Voted – 8 Yes, 1 Abstain (Headley)

2005-83 An Order to request the Municipal Council to accept a grant from the Essex National Heritage Commission in the amount of \$2,500.00 – Mayor Hildt sponsor cont.

President McMilleon reads 2005-83 into the record. Public Hearing is opened and then closed.

Councilor Benson moves the recommendation of the Finance Committee for approval.
Councilor King second
Roll Call Voted – Unanimous

Recess 9:15

NEW BUSINESS

2005-85 Administrative Order #2 – An Act Establishing the Riverwalk Apartments as an Economic Opportunity Area – Mayor Hildt sponsor

President McMilleon reads 2005-85 into the record.

Josh Handverger states that this order was filed in July and so has already become effective as law. If the Council wishes the Mayor is willing to resend it. He explains that it is a one time state abandon mill tax credit.

Councilor Chandler moves to accept 2005-85.
Councilor Pinierio second
Voted – 8 Yes, 1 No (Headley)

2005-87 An Ordinance to request the Municipal Council accept a gift of a Firefighter Sculpture from the Elizabeth Calsey House – Mayor Hildt sponsor

President McMilleon reads 2005-87 into the record.

Councilor Benson moves schedule a public hearing at the 10/11/05 Council meeting.
Councilor Chandler second
Voted – Unanimous

2005-88 An Order to request the Municipal Council to accept a grant in the amount of \$2,000.00 from the Homeland Security EMS task force – Mayor Hildt sponsor

President McMilleon reads 2005-88 into the record.

Councilor Benson moves to refer 2005-88 to the Finance Committee and schedule a public hearing at the 10/11/05 Council meeting.

Councilor Chandler second
Voted – Unanimous

2005-91 An Ordinance to request the Municipal Council vote to accept a gift of land from Wayne P. Adams – Mayor Hildt sponsor

President McMilleon reads 2005-91 into the record.

Councilor Lawrence moves to refer 2005-91 to the Ordinance Committee and schedule a public hearing at the 10/11/05 Council meeting.

Council Pinierio second
Voted – Unanimous

2005-93 An Ordinance to see if the Municipal Council will vote to accept a Compost Site Policy and Schedule of Fees – Mayor Hildt sponsor

Councilor Benson moves to refer 2005-93 to the Finance Committee and the Ordinance Committee and schedule a public hearing at the 10/11/05 Council meeting.

*Councilor Chandler second
Voted – Unanimous*

2005-94 An Ordinance to amend Amesbury Zoning By-law Section XII, B and C in order to meet State Flood Regulations – Mayor Hildt sponsor

President McMilleon reads 2005-94 into the record.

Councilor Chandler moves to refer 2005-94 to the Planning Board, Ordinance and Con Com and set up a public hearing at the 10/11/05 Council meeting.

*Councilor Benson second
Voted Unanimous*

2005-96 An Ordinance to amend Amesbury Zoning By-law Section XI.H2 Lower Millyard Overlay District – Mayor Hildt sponsor

President McMilleon reads 2005-96 into the record.

Councilor Lawrence moves to refer 2005-96 to the Ordinance Committee and Planning Board and schedule public hearing for the 10/11/05 Council meeting.

*Councilor Chandler second
Voted – Unanimous*

2005-98 A Request that the Municipal Council vote to abandon the portion of the public way known as Birch Avenue – Mayor Hildt sponsor

President McMilleon reads 2005-98 into the record.

Councilor Lawrence moves to refer 2005-98 to the Planning Board and Ordinance Committee and schedule a public hearing at the 10/11/05 Council meeting.

*Councilor Chandler second
Voted – Unanimous*

2005-99 An Order to vote to appropriate funds to be added to the FY2006 Law Budget – Mayor Hildt sponsor.

President McMilleon reads 2005-99 into the record.

Councilor Benson moves to refer 2005-99 to the Finance Committee and schedule a public hearing at the 10/11/05 Council meeting.

*Councilor Pinierio second
Voted – Unanimous*

2005-100 An Order to vote to appropriate funds to conduct a personnel and deployment study of the Fire Department – Mayor Hildt sponsor

President McMilleon reads 2005-100 into the record.

Councilor Benson refers 2005-100 to the Finance Committee and schedule a public hearing at the 10/11/05 Council meeting.

*Councilor Pinierio second
Voted – Unanimous*

2005-101 An Order to appropriate Free Cash to fund Capital Expenditures – Mayor Hildt sponsor

President McMilleon reads 2005-101 into the record.

Councilor Benson moves to send 2005-101 back to the Mayor and request that he re-submit it with additional information on each and every item on the list.

*Councilor Chandler second
Voted – Unanimous*

COMMUNICATIONS FROM BOARDS AND COMMISSIONS

2005-103 Declare Board of Library Trustee seat vacant – 2 year unexpired term.

Councilor Benson moves to declare the Board of Library Trustee seat vacant and set up a joint meeting at the 10/11/05 Council meeting and send a letter of appreciation.

Councilor Lawrence second

Voted – 8 Yes, 1 No (Chandler)

MAYOR COMMUNICATIONS

2005-85 Mileage reimbursement rate – Effective October 1, 2005, in accordance with the I.R.S.' adjustment of the reimbursement rate, I have authorized that the Town of Amesbury reimbursement rate to be set at 40.5 cents a mile.

Automobile reimbursement is for preauthorized travel using personal vehicles for official Town business only and does not include travel to and from work.

COUNCIL COMMUNICATIONS ANNOUNCEMENTS AND COMMITTEE REPORTS

President McMilleon reads the warrant for the preliminary election (attached).

President McMilleon reminds the Council that there will be a classification workshop with the Assessor 9/29/05.

Councilor Benson motion to adjourn
Councilor Chandler second
9:40PM

Respectfully Submitted,
Assistant Town Clerk